

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

WAYNE BERRY, a Hawaii citizen;)	CIVIL NO. CV03-00385 SOM-LEK
)	(Copyright)
Plaintiff,)	
)	DECLARATION OF LEX R. SMITH
vs.)	
)	
HAWAIIAN EXPRESS SERVICE,)	
INC., et al.,)	
)	
Defendants.)	
_____)	

DECLARATION OF LEX R. SMITH

I, LEX R. SMITH, under penalty of perjury, state as follows:

1. I am an attorney licensed to practice law before all of the State and Federal Courts in the State of Hawaii and am one of the attorneys representing Defendants C&S Logistics of Hawaii, LLC, C&S Wholesale Grocers, Inc., C&S Acquisitions, LLC, ES3, LLC and Richard Cohen (collectively, "C&S") in this case.

2. Attached hereto as Exhibit "A" is a true and correct copy of my May 22, 2007 letter to Timothy Hogan regarding Attorney's Fees and Costs Awarded to C&S.

3. Attached hereto as Exhibit "B" is a true and correct copy of my May 30, 2007 email to Timothy Hogan, sent at 9:21 a.m., regarding

scheduling of the debtor examination of Wayne Berry.

4. Attached hereto as Exhibit "C" is a true and correct copy of my May 30 2007 email to Timothy Hogan, sent at 11:06 a.m. regarding the scheduling of the debtor examination of Wayne Berry.

5. Attached hereto as Exhibit "D" is a true and correct copy of a memorandum dated July 16, 2007 received by my office from Anthony Shannon.

6. Attached hereto as Exhibit "D1" is a true and correct copy of the June 13, 2007 Return of Service.

7. Attached hereto as Exhibit "E" is a true and correct copy of a June 14, 2007 email from Timothy Hogan to myself, regarding the Judgment Debtor Examination.

8. Attached hereto as Exhibit "F" is a true and correct copy of my August 7, 2007 letter to Timothy Hogan, regarding the Judgment Debtor Examination.

I declare under penalty of perjury that the statements made herein are true and correct to the best of my knowledge, information and belief.

DATED: Honolulu, Hawaii, August 9, 2007.



LEX R. SMITH